



DEPARTMENT OF DEFENSE

Department of the Army, U.S. Army Corps of Engineers

Notice of Intent to Prepare a Draft Tiered Environmental Impact Statement for the New York and New Jersey Harbor and Tributaries Coastal Storm Risk Management Feasibility Study

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: Pursuant to the requirements of the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (USACE) New York District is preparing an integrated Draft Feasibility Report/Tiered Environmental Impact Statement (EIS) for the New York and New Jersey Harbor and Tributaries Coastal Storm Risk Management Feasibility Study (NYNJHATS). The study is assessing the feasibility of coastal storm risk management alternatives to be implemented within the defined study area with a specific emphasis on the New York and New Jersey Harbor, including Upper and Lower Bays, Newark Bay, Raritan Bay, Sandy Hook Bay, Jamaica Bay, Gravesend Bay, Sheepshead Bay, as well as other Bays, the tidally affected stretches of the Passaic and Hackensack Rivers, and the Hudson River to Troy, New York, as well as numerous other tributaries that discharge into New York Harbor. This is the third Notice of Intent to be published for this study.

DATES: Comments and suggestions must be submitted by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Pertinent information about the study can be found at:

<https://www.nan.usace.army.mil/NYNJHATS>. Interested parties are welcome to send written comments and suggestions concerning the scope of issues to be evaluated within the Draft Tiered

EIS to Cheryl R. Alkemeyer, NEPA Lead, Environmental Analysis Branch, Watershed Section, Planning Division, U.S. Army Corps of Engineers, New York District. Mail: Cheryl R. Alkemeyer, USACE Planning Environmental 17-421 c/o PSC Mail Center, 26 Federal Plaza, New York, NY 10278; phone: (917) 790-8723; email: nynjharbor.tribstudy@usace.army.mil.

FOR FURTHER INFORMATION CONTACT: Questions about the overall NYNJHAT

Study should be directed to Bryce Wisemiller, Project Manager, U.S. Army Corps of Engineers, New York District, Programs and Project Management Division, Civil Works Programs Branch. Mail: Bryce W. Wisemiller, USACE Programs and Project Management 17-401, c/o PSC Mail Center, 26 Federal Plaza, New York, NY 10278; Phone: (917) 790-8307; email: nynjharbor.tribstudy@usace.army.mil.

SUPPLEMENTARY INFORMATION:

1. Background and Purpose and Need for Proposed Action

In 2012, Hurricane Sandy caused considerable loss of life, extensive damage to development, and massive disruption to the North Atlantic Coast. The effects of this storm were particularly severe because of its tremendous size and the timing of its landfall during spring high tide. Twenty-six states were impacted by Hurricane Sandy, and disaster declarations were issued in 13 states. New York and New Jersey were the most severely impacted states, with the greatest damage and most fatalities in the New York Metropolitan Area. Flood depths due to the storm surge were as much as nine feet in Manhattan, Staten Island, and other low-lying areas within the New York Metropolitan Area. At the time, Hurricane Sandy was the second costliest hurricane in the nation's history and the largest storm of its kind to hit the U.S. east coast. The storm exposed vulnerabilities associated with inadequate coastal storm risk management measures and lack of defense to critical transportation and energy infrastructure.

On January 29, 2013, President Obama signed into law the Disaster Relief Appropriations Act of 2013 (Public Law [Pub. L.] 113-2), to assist in the recovery in the aftermath of Hurricane Sandy.

The USACE North Atlantic Division was authorized by Pub. L. 113-2 to commence the North Atlantic Coast Comprehensive Study (NACCS) to investigate coastal storm risk management strategies for areas impacted by the storm. In January 2015, USACE completed the NAACS, which identified high-risk areas on the Atlantic Coast warranting further investigation for flood risk management solutions. The NYNJHAT focus area was one of the three focus areas identified, along with the Nassau County Back Bays and the New Jersey Back Bays studies. USACE is authorized under Public Law 84-71, June 15, 1955 (69 Stat. 132), as modified, to conduct an investigation into potential coastal storm risk management solutions within the NYNJHAT study area.

The USACE New York District, in partnership with the New York State Department of Environmental Conservation (NYSDEC) and the New Jersey Department of Environmental Protection (NJDEP) as the non-federal sponsors, are undertaking this study. In addition, the City of New York and the New York State Department of State are non-federal partners. The Feasibility Cost Sharing Agreement (FCSA) was executed on July 15, 2016 between the USACE New York District, the NYSDEC, and NJDEP.

2. Study Area

The study area encompasses approximately 2,150 square miles and includes parts of Bergen, Passaic, Morris, Essex, Hudson, Union, Somerset, Middlesex, and Monmouth Counties in New Jersey and Rensselaer, Albany, Columbia, Greene, Dutchess, Ulster, Putnam, Orange, Westchester, Rockland, Bronx, New York, Queens, Kings, Richmond, and Nassau Counties in New York. The study area extends upstream on the Hudson River to the federal lock and dam at

Troy, New York, the Passaic River to the Dundee Dam, and the Hackensack River to the Oradell Reservoir, and numerous other smaller tidally influenced tributaries to the harbor.

3. USACE Decision Making

As required by the Council on Environmental Quality's Principles, Requirements and Guidelines for Water and Land Related Resources Implementation Studies all reasonable alternatives to the proposed federal action that meet the purpose and need will be considered in the Draft Tiered EIS. The focused array of alternatives formulated range from harbor-wide coastal storm risk management methods to land-based, perimeter methods, with three alternatives between. All alternatives are anticipated to also include complementary nonstructural measures and natural and nature-based features as appropriate and feasible. To be conservative, all other ongoing studies and projects by USACE and other agencies that can reasonably be expected to be funded and approved for construction by early 2023 are assumed to be in place as part of this study's assumed future "without project" condition.

NEPA requires federal agencies, including USACE, to consider the potential environmental impacts of their proposed actions and any reasonable alternatives before undertaking a major federal action, as defined by 40 CFR 1508.18. Due to the complexity and size of the project the EIS will be conducted in two stages or tiers. Tiering, which is defined in 40 CFR 1508.28, is a means of making the environmental review process more efficient by allowing parties to "eliminate repetitive discussions of the same issues and to focus on the actual issues suitable for decision at each level of environmental review" (40 CFR 1502.20).

A tiered review consists of two stages: a broad-level review and subsequent specific detailed reviews. The broad-level review identifies and evaluates the issues that can be fully addressed and resolved, notwithstanding possible limited knowledge of the project. In addition, it establishes the standards, constraints, and processes to be followed in the specific detailed reviews. As proposed alternatives are developed and refined, incorporating a higher level of detail, the specific detailed reviews

evaluate the remaining issues based on the policies established in the broad-level review. Together, the broad-level review and all specific detailed reviews will collectively comprise a complete environmental review addressing all required elements.

A full Tier 1 and Tier 2 EIS analysis consistent with USACE guidance and policy will be performed for this project and will include a public comment period and public engagement for the respective drafts to elicit and incorporate public input into the EISs. The Tier 1 EIS will be completed as part of the feasibility study, with the Tier 2 EIS being done if and when the project advances to the next phase of development, the preconstruction, engineering and design phase. Tiering NEPA expedites the resolution of big-picture issues so that subsequent studies can focus on project-specific impacts and issues. Tiering also allows environmental analyses for each Tier 2 project to be conducted closer in time to the actual construction phase, or as funds become available for construction.

4. Public Participation

USACE, NYSDEC, and NJDEP hosted three agency workshop meetings in January and February 2017, with representatives from over 100 federal and state agencies, as well as representatives from local agencies and towns. The purpose of those meetings was to receive input on the scope of the study, the problems, needs, opportunities and constraints for the study, and to identify additional stakeholders and areas of unaddressed coastal storm risk.

USACE initially announced the preparation of an integrated Feasibility Report/Tiered EIS for study in the February 13, 2018 *Federal Register*. The 45-day NEPA scoping period (July 6 - August 20, 2018) was extended to November 5, 2018 based on requests from elected officials and the public. Nine public NEPA scoping meetings were held throughout the study area. Subsequent to the publication of the February 13, 2018 NOI, the NYNJHATS was granted an exemption from the requirement to complete the feasibility study within 3 years, as required in section 1001(a) of the Water Resources Reform and Development Act of 2014. This exemption was granted on October 31, 2018 on an interim basis, and allowed for an additional 15 months to complete the

Draft Integrated Feasibility Report and Tier 1 EIS. Therefore, in order to align the revised study schedule with the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR parts 1500-1508), a Notice to Withdraw the original NOI was published in the February 13, 2019 *Federal Register*.

To further provide the public with study information prior to the draft report, an Interim Report was released on February 19, 2019 that detailed the preliminary economic, environmental, engineering and other analyses performed to date for the above referenced alternatives. Eight public meetings related to the Interim Report were held. USACE published a second NOI in the January 13, 2020 *Federal Register* but shortly after its publication the study was substantially curtailed due to lack of funding. A second Notice to Withdraw was published in the *Federal Register* on June 1, 2020. In October of 2021 the study was restarted with the resumption of federal funding and USACE is preparing for the release of a Draft Tiered EIS in late September of 2022. Comments, concerns and information submitted to USACE during the scoping period and since the Interim Report's release are being evaluated and considered during the development of the Draft Tiered EIS.

5. Lead and Cooperating Agencies

USACE is the lead federal agency for the preparation of this Tiered EIS in order to meet the requirements of the NEPA and the NEPA Implementing Regulations of the President's Council on Environmental Quality (40 CFR 1500–1508). The following agencies have accepted the invitation to be Cooperating Agencies: U.S. Coast Guard, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the National Park Service, and the Federal Emergency Management Agency. The preparation of a Tiered EIS will be coordinated with New York State, New Jersey State, the City of New York, and local municipalities with discretionary authority relative to the proposed actions.

6. Proposed Action and Study Alternatives

Early in the study and during the scoping period, USACE engaged with stakeholders and the public to seek input on the purpose and need and the proposed study alternatives. Six alternatives, including the No Action Alternative, were identified, and will be presented in the Draft Integrated Feasibility Report/Tiered EIS: Alternative 1 - No Action Alternative; Alternative 2 – NY/NJ Harbor-Wide Gate/Beach Restoration; Alternative 3a – Multiple Bay/Basin Gate/Floodwall/Levee; Alternative 3b – Multiple Bay/Basin Gate/Floodwall/Levee; Alternative 4 – Single Water Body gate/Floodwall/Levee; and, Alternative 5 – Perimeter Only Solutions. Additional information on the Action Alternatives can be found on the NYNJHATS website at <https://www.nan.usace.army.mil/NYNJHATS>.

7. Study Schedule

The current NYNJHAT Study schedule anticipates a release of the Draft Integrated Feasibility Report/Tiered EIS in September 2022, with a public review and comment period occurring between September – December 2022. The Agency Decision Milestone is anticipated to occur in April 2023, with a Final Integrated Feasibility Report/Tiered EIS scheduled for January 2024 and a Chief of Engineers Report currently approved to be completed no later than June 2024.

8. Anticipated Impacts, Permits, and Authorizations

An EIS is required when impacts are anticipated to be significant to one or more resources as a result of a federal action. The Draft Tiered EIS will analyze the full range of direct, indirect, and cumulative impacts of the alternatives to include effects from construction and operation of tide gates and storm surge barriers, levees, floodwalls, seawalls, deployable traffic and pedestrian gates as well as several other structural and non-structural measures as well as natural and nature-based features where appropriate and feasible. Potentially significant issues to be analyzed include impacts to waters of the United States (including wetlands), aquatic resources,

and endangered and threatened species and their habitats. Other impacts that will be analyzed include hydrology and water quality, air quality, land use, navigation, cultural resources, aesthetics, environmental justice, community cohesion, recreation, transportation and traffic, and community services. Anticipated permits and authorizations will depend on the selected Action Alternative and may include a need for mutual acceptability with the Department of Interior for measures located on National Park Service land. In addition, many other federal, state, and local authorizations will be required for the Project. Applicable federal laws include the Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, Marine Mammals Protection Act, Rivers and Harbors Act, Clean Water Act, and the Coastal Zone Management Act. USACE is also conducting government-to-government Tribal consultations.

USACE has chosen to use the NEPA process to fulfill its obligations under the National Historic Preservation Act (NHPA). While USACE's obligations under the NEPA and the NHPA are independent, the regulations implementing section 106 of the NHPA, at 36 CFR 800.8(c) allow the NEPA process and documentation to substitute for various aspects of the NHPA review. This process is intended to improve efficiency, promote transparency and accountability, and support a broadened discussion of potential effects that a project could have on the human environment. During preparation of the Draft Tiered EIS USACE will ensure that the NEPA process will fully meet all NHPA obligations.

USACE invites all affected federal, state and local agencies, affected Native American Tribes, and other interested parties, and the general public to comment on the scope of this Draft Tiered EIS and to provide input into the potential significant impacts associated with the alternatives. Additional information including the Interim Report can be viewed at the study website: <https://www.nan.usace.army.mil/NYNJHATS>.

Date: August 16, 2022.

Reinhard W. Koenig,
Programs Director,
North Atlantic Division.

[FR Doc. 2022-18029 Filed: 8/19/2022 8:45 am; Publication Date: 8/22/2022]